1951 K File No. O · Harijan Temple Entry | 51

Legal Dept.-
A BRANCH

Subject:— Opinions under the Bombay Harijans Temple Entry Act 1947.

P 4/12

File No. O Harijan Temple Entry | 51

Gen. 194 a

697 - A

C O N T E N T S.

Legal Department File No. O. Harijan Temple Entry/51

Serial No.	R.I./O.No.	Subject	Pages
		Opinions under the Bombay Harijans Temple Entry Act 1947	
1	13731 27-8-1951	Whether the Collector can use force to remove railings put by the Temple Authorities at Dwarka and Beyt to prevent entry of Harijans into the temples.	1-2
2	15108 21-9-1951	Section 4 Whether the person in charge of the temples at Dwarka and Beyt can be prosecuted successfully under section 4.	3-4

SMR 22-6-56
5 Copies.

OFFICE OF THE R.L.A.

The question raised for the R.L.A.'s consideration is whether the Collector can use force to remove the railings put up by the Temple Authorities at Dwarka and Beyt to prevent entry of Harijans into the temples.

2 A similar point arose in Civil Application No. 91 of 1951. In that case a Jain temple at Akluj was locked by the Jains to prevent the entry of Harijans. The Collector of Sholapur at the instance of the Harijans ordered the removal of the lock placed on the door of the temple by the Jains. The High Court held:

> It seems to us that the only right that he(Collector) has got in law is the right conferred upon him by section 4 of the Act. (The Bombay Harijan Temple Entry Act, 1947) That section provides that whoever prevents a Harijan from exercising any right conferred by this Act, or molests or obstructs or causes or attempts to cause obstruction to a Harijan in the exercise of any such rights, shall, on conviction, be punishable in a particular way. Therefore, if the Collector of Sholapur is satisfied ~~xx~~, in the light of our judgement and in the light of the interpretation and construction we have put upon this Act, that Hindus had the right by law or custom to enter this Jain temple at Akluj, then it would be perfectly competent to him to order a prosecution of any Jain who is depriving the Harijans of the right conferr -ed upon them under the Act. But apart from the right to prosecute the Jains under section 4, it seems to us that the Collector had no right to compel the Jains to break open the lock or to ~~xxxx~~ assist the Harijans in entering the temple".

It would, therefore, follow that the Collector in the present case cannot remove the railings put up by the Temple Authorities at Dwarka and Beyt to prevent the Harijans from entering the temples and much less to use force to remove those railings. The view taken by Secretary, H.D. is not correct.

Id./.... 24/8

Remembrancer of Legal Affairs

U.R. to E.D. No. 13731, Dated the 27th August 1951.

SMR 22-6-56
4 Copies.

Office of the P.L.A.

The question raised for consideration is whether the person in charge of the temples at Dwarka and Beyt can be prosecuted successfully under section 4 of the Bombay Harijan Temple Entry Act, 1947.

2 These temples were in the Baroda State before merger and are in the Bombay State since the merger. The temples were first thrown open to Harijans by the Baroda Mandir Pravesh Nibandh which came into force in the then Baroda State on 27-1 1949 and which was modelled on the Bombay Harijan Temple Entry Act, 1947. With the merger and the making of the Baroda State(Application of Laws) Order, 1949, the Baroda Mandir Pravesh Nibandh was replaced by the Bombay Harijan Temple Entry Act as from 30-7-1949. Hence the provisions of the Bombay Act apply from that date.

3 The prosecution contemplated under sec. 4 of the Bombay Act is in respect of barricades erected by the persons in charge of the temples around the Nij Mandir (inner temple) to prevent entry of worshippers into the Nij Mandir. The prosecution would be successful if it is proved that by reason of the said barricades the Nij Mandir is not open to worship to the Harijans in the same manner and to the same extent as any member of the Hindu community or any section thereof.

4 Two facts are clear. One is that these barricades did not exist before the temples were thrown open by law to the Harijans. The other is that before these barricades, were

erected the caste Hindu used to enter the Nij Mandir. These facts, it would appear, can be satisfactorily established. It is true that temple authorities can at any time regulate entry to the temple and there is nothing in the Act to prevent them from doing so provided such regulation applies equally to all Hindus including Harijans. Such regulations prima facie would not be penal under the Act. But if the motive behind such regulation is, as in the present case, to keep out the Harijans, it would clearly be opposed to the spirit of the Act. By Government letter dated the 4th February 1951, the priests were informed that the barricades were to be removed by the 15th June 1951. If this order has not been complied with, and the barricades are still retained, the persons who are responsible for keeping them would be liable to be prosecuted under section 4 of the Bombay Harijan Temple Entry Act, 1947. Although the barricades have been unlawfully erected, any person, whether a Hindu or a Harijan will not be entitled to take the law into his own hand or to use force to remove the same. The right of such a person can only be enforced by the due process of law i.e. either by prosecuting the persons responsible for causing obstruction or by filing a civil suit. The suggestion made by Secretary, E.D. in that behalf is not correct and would not be Legal.

Id./.... 20/9

Remembrancer of Legal Affairs.

U.H. to E.D. No. 15109 Mx(Confl.) dated the 21st September 1951.

SMR 22-6-56
4 Copies.